

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

This document relates to all cases

MDL No. 2804

Case No. 1:17-md-2804

Hon. Dan Aaron Polster

**RESPONSE TO PLAINTIFFS' MOTION TO MODIFY
PROTECTIVE ORDER RE: DEA'S ARCOS/DADS DATABASE**

Pharmacy Defendants¹ respectfully file this response to Plaintiffs' motion to modify the protective order with respect to the ARCOS database.

Plaintiffs seek leave to modify the protective order to permit them to disclose "suspicious order reports," "unprocessed ARCOS data," and "county level processed ARCOS data and certain county level reports, generated from the unprocessed ARCOS data" to "counsel for State Attorneys General, cities, counties, Native American Tribes, and hospitals for use in litigation in any court throughout the United States." ECF 1447 at 2. Plaintiffs suggest that sharing this information would "refine the process of identifying the proper defendants." *Id.*

Pharmacy Defendants join the Distributor Defendants opposition to Plaintiffs' motion. If the Court does not deny plaintiffs' motion, in addition to the more stringent controls to mitigate the risk of unauthorized disclosure requested by Distributor Defendants, Pharmacy Defendants request that copies of any reports that have been or are to be shared with other actual or potential plaintiffs should also be provided to Defendants.

¹ This response is being filed on behalf of CVS Indiana, L.L.C, Discount Drug Mart, Inc., HBC Service Company, Kroger Co., Rite Aid of Maryland, Walgreens Boots Alliance Inc., and Walmart Inc.

Because these reports are being relied on to “identif[y] the proper defendants” Defendants should have the right to review the reports and assess their accuracy. To the extent that the reports contain errors, it is in the interest of both Plaintiffs and Defendants that those errors be corrected, at a minimum of time and expense to the parties.

WHEREFORE, Pharmacy Defendants respectfully request that the Court should order that Defendants also receive copies of any reports or processed ARCOS data distributed by Plaintiffs.

Dated: March 29, 2019

Respectfully submitted,

/s/ Kelly A. Moore

Kelly A. Moore
kelly.moore@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178-0060
T: 212-309-6612
F: 212-309-6001

Elisa P. McEnroe
elisa.mcenroe@morganlewis.com
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
T: 215-963-5917
F: 215-963-5001

Counsel for Rite Aid of Maryland, Inc.

/s/ Eric R. Delinsky

Eric R. Delinsky
Alexandra W. Miller
ZUCKERMAN SPAEDER LLP
1800 M Street, NW
Suite 1000
Washington, DC 20036
Phone: (202) 778-1800
Fax: (202) 822-8106
E-mail: edelinsky@zuckerman.com
E-mail: smiller@zuckerman.com

Counsel for CVS Indiana, L.L.C. and CVS Rx Services, Inc.

/s/ Timothy D. Johnson

Timothy D. Johnson
CAVITCH, FAMLO & DURKIN CO.
LPA
Twentieth Floor
1300 East Ninth Street
Cleveland, Ohio 44114

Tel: (216) 621-7860
Fax: (216) 621-3415
tjohnson@cavitch.com

Counsel for Discount Drug Mart, Inc.

/s/ Robert M. Barnes

Robert M. Barnes
MARCUS & SHAPIRA LLP
35th Floor
One Oxford Centre
301 Grant Street
Pittsburgh, PA 15219
412-338-5224
Fax: 412-391-2315
Email: rbarnes@marcus-shapira.com

Counsel for HBC Service Company

/s/ Ronda L. Harvey

Ronda L. Harvey
rharvey@bowlesrice.com
Fazal A. Shere
fshere@bowlesrice.com
Unaiza Riaz
uriaz@bowlesrice.com
Gabriele Wohl
gwohl@bowlesrice.com
BOWLES RICE LLP
Post Office Box 1386
Charleston, West Virginia 25325-1386
(304) 347-1100

Counsel for Defendant Kroger Co.

/s/ Kaspar Stoffelmayr

Kaspar Stoffelmayr
BARTLIT BECK LLP
54 West Hubbard Street
Chicago, IL 60654
Telephone: (312) 494-4400
Fax: (312) 494-4440
kaspar.stoffelmayr@bartlitbeck.com

Counsel for the Walgreens Boots Alliance Inc.

/s/ Tara A. Fumerton

Tina M. Tabacchi

Tara A. Fumerton

JONES DAY

77 West Wacker

Chicago, IL 60601

Phone: (312) 269-4335

Fax: (312) 782-8585

E-mail: tfumerton@jonesday.com

Counsel for Walmart Inc.

CERTIFICATE OF SERVICE

I certify that on March 29, 2019, the foregoing was electronically filed using the Court's CM/ECF system, and all counsel of record were served by operation of that system.

/s/ Elisa P. McEnroe

Elisa P. McEnroe